

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
:  
STATE OF NEW YORK, STATE OF ILLINOIS,  
STATE OF MARYLAND, STATE OF WASHINGTON, : 07-CV-8621 (PAC)

Plaintiffs, : **SUPPLEMENTAL  
DECLARATION OF  
ROGER GANTZ**  
- against - :  
----- X

UNITED STATES DEPARTMENT OF HEALTH AND :  
HUMAN SERVICES, : ECF CASE

Defendant.  
----- X

ROGER GANTZ hereby declares the following to be true and correct under penalty of perjury, pursuant to 28 U.S.C. § 1746:

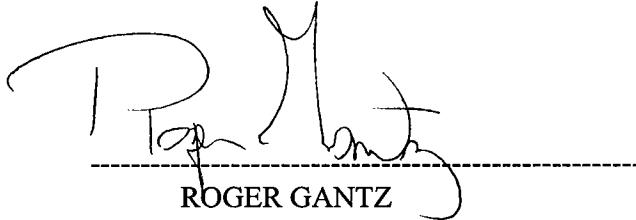
1. I am competent to testify in the matters set forth below, which are based on my personal knowledge.

2. I am employed as the Director of Policy and Analysis of the Health and Recovery Services Administration (HRSA) of Washington State's Department of Social and Health Services (DHS). DHS is the single state agency designated to administer the Medicaid plan; HRSA is the component of DHS that administers Washington State's public medical assistance programs, including Medicaid and the State Children's Health Insurance (SCHIP) programs. I have been employed by DHS since January 1977.

3. This will supplement my previous declaration in this matter dated April 14, 2008.

4. Attached as **Exhibit A** is a true and correct copy of a letter from Monica Harris, Acting Director of CMS's Division of State Children's Health Insurance, received by Washington State on April 24, 2008.

Dated: Olympia, Washington  
May 30, 2008



A handwritten signature in black ink, appearing to read "R. Gantz". Below the signature is a horizontal dashed line, and underneath the line is the printed name "ROGER GANTZ".

# **EXHIBIT A**

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Center for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-01-16  
Baltimore, Maryland 21244-1850



Family and Children's Health Programs Group, Center for Medicaid and State Operations

Ms. Robin Arnold-Williams  
Secretary  
Department of Social and Health Services  
PO Box 45010  
Olympia, Washington 98504-5010

APR 24 2008

Dear Ms. Arnold-Williams:

Thank you for your State Children's Health Insurance Program (SCHIP) state plan amendment (SPA) submitted on April 21, 2008. As you are aware, your proposal has been undergoing review by the Department of Health and Human Services. In order to proceed with our review, we find it necessary to seek further information. Our major concerns relate to the title XXI statutory requirements in the following areas:

- Section 2101(a) of the Social Security Act describes the purpose of the SCHIP statute "to initiate and expand the provision of child health assistance to uninsured, low-income children in an effective and efficient manner that is coordinated with other sources of health benefits coverage." Section 2102(b)(3)(C) of the Act, requires that State child health plans include procedures to ensure that SCHIP coverage does not substitute for coverage under group health plans (known as "crowd-out" procedures).
- Section 2102(b)(1)(A) Income Methodology. In section 4.1.3., additional information is needed regarding the methodology that the State employs to determine income eligibility, including disregards. Please clarify whether the State's upper income limit of 300 percent of the Federal poverty level (FPL) is based on gross or net income and provide a description of the income disregards.
- Section 2107(d) requires that the State plan include a description of the budget for the plan. In section 9.10, specifically, the budget should include the number eligible for the population covered under the State plan and include the specific FMAP rate used in a footnote describing the budget assumptions.

The enclosure addresses other areas of the proposal that require additional information and clarification. CMS may have further questions in addition to the information requested at this time.

Page 2 – Ms. Arnold-Williams:

Under section 2106(c) of the Social Security Act, CMS must approve, disapprove, or request additional information on a proposed title XXI State plan amendment within 90 days. This constitutes our notification that specified additional information is needed in order to assess fully the concerns raised in this letter. The 90-day review period has been stopped by this request and will resume as soon as the State's response to this request for additional information is received. However, if a response to this request is not received by CMS within 180 days of the date of this letter, the SPA will be disapproved. The members of the Review Team are available to answer any questions you may have in regard to this letter and to assist your staff in formulating a response.

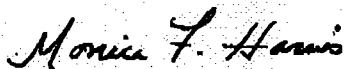
Please send your response, either on disk or electronically, as well as in hard copy, to Jeffrey Silverman, project officer for the Washington title XXI proposal, with a copy to the CMS Region X Office.

Mr. Silverman's Internet address is [jeffrey.silverman@cms.hhs.gov](mailto:jeffrey.silverman@cms.hhs.gov). His mailing address is:

Centers for Medicare & Medicaid Services  
Center for Medicaid and State Operations  
Division of State Children's Health Insurance  
Mail Stop S2-01-16  
7500 Security Boulevard  
Baltimore, MD 21244-1850

We appreciate the efforts of your staff and share your goal of providing health care to low-income, uninsured children through title XXI. If you have questions or concerns regarding the matters raised in this letter, your staff may contact Jeffrey Silverman at (410) 786-8679. He will provide or arrange for any technical assistance you may require in preparing your response. Your cooperation is greatly appreciated.

Sincerely,



Monica Harris  
Acting Director  
Division of State Children's Health Insurance

Enclosure

cc: CMS Region X DMSO

**Enclosure**

**Section 1: General Description and Purpose**

Section 1.4: Please provide effective and implementation dates for all previous State Plan Amendments.

**Section 4: Eligibility Standards and Methodology**

- 1) Section 4.1.2: Please include all populations served under the State plan in this section. Currently, the unborn population is not included in this section.
- 2) Section 4.1.3: Please specify the income disregards that are included in the computation of income eligibility. Are each of these disregards applied to gross income or to net income? Is 300 percent of the Federal poverty limit (FPL) the upper income limit of eligibility before or after disregards are taken?
- 3) Because the State is proposing an income level above 250 percent of FPL, Washington will need to adhere to the August 17<sup>th</sup> 2007 State Health Official (SHO) Letter requirements. Please provide the following information:
  - a) Assurance that at least 95 percent of eligible children with family incomes below 200 percent of the FPL who are eligible for either SCHIP or Medicaid have been enrolled in these programs or have other insurance coverage;
  - b) Assurance that the number of children in the target population insured through private employers has not decreased by more than 2 percentage points over the prior 5 year period;
  - c) Assurance that the State is current with all reporting requirements in SCHIP and Medicaid and will report on a monthly basis data relating to the crowd-out requirements;
  - d) The cost sharing requirement under the proposed State plan compared to the cost sharing required by competing private plans is not be more favorable to the public plan by more than one percentage point of the family income, unless the public plan's cost sharing is set at the five percent family cap;
  - e) The State must establish a minimum of a one year period of uninsurance for individuals prior to receiving coverage; and
  - f) Monitoring and verification must include information regarding coverage provided by a noncustodial parent.

**Section 8: Cost Sharing and Payment**

- 4) Please clarify which changes to cost sharing are being proposed. The proposed cost sharing in the cover letter is different than the cost sharing in section 8.5.
- 5) Section 8.2.1: The proposal states that eligibility will end if premiums are not paid for three consecutive months. Please clarify whether the enrollee would be allowed to receive services during this three month period and how the State proposes to handle claiming for this period.
- 6) Section 8.3: The State notes that a notice is sent to all recipients if there is a change in premiums, etc. Please provide a copy of the notice.
- 7) Section 8.5: Please describe how the State will ensure that the annual aggregate cost sharing for a family does not exceed the 5 percent cap.

**Section 9.10: Budget**

- 8) Please complete the budget template by population and label appropriately (e.g., unborn children). The benefits section must be broken down by the number of eligibles by Per Member/Per Month (PMPM) for each population. Please include subtotals and totals, as well as all budget assumptions as a footnote to the budget.